

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

In Re:) **Case No:** 18-02556
Michael Stupay) **Adversary:**
Heather Michelle) **Chapter:** Chapter 13
Stupay)
Debtor(s),) **Judge:** Pamela S. Hollis

NOTICE OF MOTION

TO: Michael Stupay, 1006 Mountain View Drive, Joliet, 60432

Glenn B. Stearns, 801 Warrenville Rd.Suite 650, Lisle, IL, 60532

Office of the US Trustee, 219 S. Dearborn, Suite 873, Chicago, IL 60604

Robert J. Ross, registered agent for Kent & Melone, 1622 W. Colonial Parkway, Ste. 201, Inverness, IL 60067

PLEASE TAKE NOTICE that on **August 17, 2018** at 10:45 a.m., I shall appear before the Honorable Judge Pamela S. Hollis at Joliet City Hall, 150 W. Jefferson St. 2nd Floor, Joliet, IL and then and there present the attached **MOTION TO AVOID THE LIEN OF KENT & MELONE LLC** a copy of which is attached hereto.

By: /s/Briana Czajka
Briana Czajka

CERTIFICATE OF SERVICE

The undersigned, Briana Czajka, an Attorney, does hereby certify that I caused a copy of this notice and attached **MOTION TO AVOID THE LIEN OF KENT & MELONE LLC** to be mailed to the above persons, at their respective addresses, first-class postage prepaid, by depositing the same in the U.S. Mail at 55 E. Monroe St., Chicago, Illinois, 60603, before 5:30 p.m. on August 8, 2018.

By: /s/Briana Czajka
Briana Czajka

Attorneys for the Debtors

Geraci Law LLC
55 E. Monroe Street #3400
Chicago, Illinois 60603
(Ph): 312.332.1800 (Fax): 877.247.1960

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

In Re:) **Case No:** 18-02556
Michael Stupay) **Adversary:**
Heather Michelle) **Chapter:** Chapter 13
Stupay)
Debtor(s),) **Judge:** Pamela S. Hollis

MOTION TO AVOID THE LIEN OF KENT & MELONE LLC

NOW COME the Debtors, Mr. & Mrs. Michael Stupay (the "Debtors"), by and through their attorneys, Geraci Law LLC, to present their **MOTION TO AVOID THE LIEN OF KENT & MELONE LLC** (the "Creditor") and state as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 and this is a "core proceeding" under 28 U.S.C. 157.
2. The Debtors filed for relief under Chapter 13 of the United States Bankruptcy Code (the "Code") on 01/30/2018.
3. The Debtors are the owners of a primary residence at 1006 Mountain View Drive, Joliet, IL, 60432. The property is worth \$236,500 (see Exhibit A) and encumbered by a mortgage of \$292,186.76 (see Exhibit B).
4. The Debtors are entitled to a homestead exemption of \$30,000 pursuant to 735 ILCS 5/12-901.
5. Prior to filing, the Creditor had obtained a judgment lien against Debtors for \$3,436.53, document #R201721019 and recorded this judgment on 03/14/2017.

6. Said judgment fixed a lien on the Debtors' homestead by

operation of 735 ILCS 5/12-101.

7. Pursuant to 11 U.S.C. 522(f)(1), the Debtors may avoid the fixing of a lien on an interest of the Debtors in property to the extent that such lien impairs an exemption to which the Debtors would have been entitled under subsection (b) of this section, if such lien is-

(A), a judicial lien, other than a judicial lien that secures a debt-

(i) to a spouse, former spouse, or child of the Debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement; and

(ii) to the extent that such debt-

(I) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

(II) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.

8. Under 11 U.S.C. sec 522(f)(2)(A), the judicial lien in favor of the Creditor clearly impairs an exemption to which the Debtors would have been entitled.

9. Avoiding the judicial lien held by Kent & Melone LLC is

necessary for the Debtors' successful reorganization.

WHEREFORE, the Debtors, Mr. & Mrs. Michael Stupay, pray that this Court enter an order avoiding the lien of Kent & Melone LLC and to grant such other relief as this Court seems just.

Respectfully submitted,

/s/Briana Czajka

Briana Czajka

Attorneys for the Debtors

Briana Czajka

Geraci Law LLC

55 E. Monroe Street #3400

Chicago, Illinois 60603

(Ph): 312.332.1800